[DISCUSSION DRAFT]

NOVEMBER 13, 2001

107TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. MARKEY introduced the following bill; which was referred to the Committee on _____

A BILL

To require the Nuclear Regulatory Commission to ensure that sufficient stockpiles of potassium iodide tablets have been established near nuclear power plants and that appropriate plans for their utilization exist.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. FINDINGS.

The Congress makes the following findings:

(1) Potassium iodide long has been shown to have prevented radiation-induced thyroid diseases with negligible side effects.

(2) The American Thyroid Association and a broad array of other experts on radiation protection and thyroid cancers have consistently recommended making potassium iodide available for use in the case of a radiological catastrophe. The experience of the Chernobyl accident in 1985 and its aftermath have confirmed the safety and efficacy of potassium iodide in preventing radiation-induced thyroid cancers.

(3) Despite the clear and compelling evidence that potassium iodide is a safe, effective, and inexpensive means of preventing radiation-induced thyroid cancers, the Nuclear Regulatory Commission and its staff have, through their inaction, delayed the stockpiling and distribution of this substance for the last 22 years.

(4) The safety and efficacy of potassium iodide was formally established as a matter of Federal policy when, on December 15, 1978, the Food and Drug Administration concluded that potassium iodide is a safe and effective means by which to block uptake of radioactive iodine by the thyroid gland in

a radiological catastrophe, and approved its over-the-counter sale.

(5) In November 1979, after the Three Mile Island accident revealed shortages in availability of potassium iodide and the Presidents Commission on the Accident at Three Mile Island criticized the Federal Government's failure to stockpile it, the Nuclear Regulatory Commission first declared that it would require potassium iodide stockpiling ''a necessary part of an acceptable State emergency response plan'' in the event of a future nuclear accident. Despite this statement, the Commission failed to take prompt action to make potassium iodide available.

(6) On September 27, 1982, the Nuclear Regulatory Commission staff recommended that the Commission approve a policy endorsing use of potassium iodide as a ''useful protective action''. However, on October 15, 1982, the Commission staff reversed itself, noting that the Federal Emergency Management Agency had dropped plans to stockpile a large quantity of potassium iodide and stating that the staff now planned to prepare a new paper that would recommend against stockpiling and distribution of potassium iodide on cost-benefit grounds.

(7) On at November 22, 1982, public briefing of the Nuclear Regulatory Commission, the staff inexplicably argued against stockpiling of potassium iodide on cost-benefit grounds, suggesting that even though potassium iodide is inexpensive, it would be even cheaper in the long run to treat radiation-induced thyroid cancers than to prevent them.

(8) On July 24, 1985, the Nuclear Regulatory Commission issued a national policy on potassium iodide which reversed the Commission's previous support for stockpiling and distribution. Referring to the Commission staff's ''cost-benefit analysis'', it rejected the notion of distributing potassium iodide as ''not worthwhile''.

(9) On June 16, 1989, a Nuclear Energy Commission employee filed a Differing Professional Opinion challenging the Nuclear Regulatory Commission's potassium iodide policy.

(10) On March 29, 1994, the Nuclear Regulatory Commission staff recommended to the Commission that stockpiling potassium iodide in the vicinity of nuclear power plants ''appears prudent'' and urged a new policy of purchasing potassium iodide and encouraging the States to establish stockpiles. However, a deadlocked 2–2 vote by the Com-

mission prevented adoption of the proposed new policy.

(11) On September 9, 1995, a Nuclear Regulatory Commission employee filed, as a private citizen, a petition for rulemaking asking the Commission to require that potassium iodide be included in State emergency plans.

(12) On June 16, 1997, the Nuclear Regulatory Commission staff proposed a draft policy statement to the Commission which would make potassium iodide available at Federal expense to those States who request it, while also stating that there is ''no new information'' warranting a change in existing policy—despite the experience from the Chernobyl accident regarding the effectiveness of potassium iodide in preventing thyroid cancers.

(13) On March 31, 1998, the Nuclear Regulatory Commission staff recommended to the Commission that it deny the petition for rulemaking filed by one of its employees in a private capacity, on the basis of spurious arguments about the purported side effects of potassium iodide and the potential for liability relating to such purported side effects.

(14) On April 9, 1998, the Federal Emergency Management Agency wrote the Commission to point

out ''misleading'' characterizations being made about its position on potassium iodide by the Nuclear Regulatory Commission staff and a nuclear industry trade association.

(15) On July 1, 1998, the Nuclear Regulatory Commission announced that it had voted 3–1 to reject the recommendation by the staff and grant the petition for rulemaking and to require States to consider potassium iodide, along with evacuation and sheltering, in emergency planning for nuclear power plant accidents. Despite this action, no rulemaking was immediately forthcoming.

(16) In January 2001, the Nuclear Regulatory Commission finally revised a portion of its emergency response regulations to require that consideration be given to including potassium iodide as a protective measure for the general public to supplement sheltering and evacuation in the event of a severe nuclear power plant accident. In doing so, the Commission found that potassium iodide is ''a reasonable, prudent, and inexpensive supplement to evacuation and sheltering for specific local conditions''.

(17) On October 16, 2001, the Nuclear Regulatory Commission stated that while it had decided

to fund the initial purchases of potassium iodide as a supplemental measure, it had not formulated a concrete plan for its distribution, preferring instead to leave it to the States to decide whether to make potassium iodide available to its citizens.

(18) The events of September 11, 2001, have underscored the need to undertake immediate measures to protect the public against other possible terrorist attacks, including terrorist attacks against nuclear power plants. Such preparations must include the immediate establishment of a uniform national policy to be established with respect to the stockpiling and distribution of potassium iodide, rather than deferring to the States on the question of whether it should be stockpiled. In order to establish such a uniform national policy, the Nuclear Regulatory Commission and all other applicable Federal agencies must remove all further obstacles to the immediate stockpiling and distribution of potassium iodide on a national basis.

SEC. 2. RULEMAKING.

(a) AMENDMENT.—Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 et seq.) is amended by inserting after section 241 the following new section:

''SEC. 242. POTASSIUM IODIDE.—Not later than 6 months after the date of the enactment of this section, the Commission shall—

''(1) ensure that stockpiles of potassium iodide tablets sufficient to provide adequate protection to the population have been established in individual homes and at public facilities such as schools and hospitals within 50 miles of a nuclear power plant;

''(2) ensure that stockpiles of potassium iodide tablets sufficient to provide adequate protection to the population have been established at public facilities such as schools and hospitals within the area between 50 and 200 miles of a nuclear power plant;

''(3) establish a plan to provide for the utilization of the stockpiles described in paragraphs (1) and (2) by individuals located within 200 miles of a nuclear power plant in the event of a release of radionuclides, other than a release of amounts having no significant public health consequences; and

''(4) transmit to the Congress a report—

''(A) on whether stockpiles have been established as required by paragraphs (1) and (2); and

''(B) on the utilization plan required under paragraph (3).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of chapter 19 of the Atomic Energy Act of 1954 is amended by inserting after the item relating to section 241 the following new item:

"Sec. 242. Potassium iodide.".